

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TONY WILLIAMS,

Plaintiff,

v.

PAULA MILLER, et al.,

Defendants.

3:16-cv-00012-RCJ-WGC

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On June 14, 2016, the Court issued an order denying Plaintiff's application to proceed *in forma pauperis* (ECF No. 5) and giving Plaintiff until August 1, 2016 to pay the filing fees of \$400.00. (ECF No. 9). The period for Plaintiff to pay the filing fees has passed, and Plaintiff has not paid the fees or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.

1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court
 1 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
 2 (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424
 3 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).
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5 In determining whether to dismiss an action for lack of prosecution, failure to obey a
 6 court order, or failure to comply with local rules, the court must consider several factors: (1)
 7 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
 8 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 9 cases on their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d
 10 at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-
 11 61; *Ghazali*, 46 F.3d at 53.

12 In the instant case, the Court finds that the first two factors, the public's interest in
 13 expeditiously resolving this litigation and the Court's interest in managing the docket, weigh
 14 in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
 15 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in
 16 filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
 17 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of cases
 18 on their merits – is greatly outweighed by the factors in favor of dismissal discussed herein.
 19 Finally, a court's warning to a party that his failure to obey the court's order will result in
 20 dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262;
 21 *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring
 22 Plaintiff to pay the full filing fees of \$400.00 expressly stated: "Plaintiff's failure to comply with
 23 this Order will result in dismissal without prejudice." (ECF No. 9 at 2:15-16). Thus, Plaintiff
 24 had adequate warning that dismissal would result from his noncompliance with the Court's
 25 order to pay the full filing fees of \$400.00.

26 It is therefore ORDERED that this action is dismissed based on Plaintiff's failure to pay
 27 the full filing fees of \$400.00 in compliance with this Court's June 14, 2016, order (ECF No.
 28 9).

1 IT IS FURTHER ORDERED that Plaintiff's motion for order to disclose known and last
2 known address of defendants (ECF No. 8) is DENIED as moot.

3 It is further ordered that the Clerk of Court shall enter judgment accordingly.

4 DATED: August 30, 2016.

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8 United States District Judge

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